

The Honorable Thomas S. Zilly

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON AT SEATTLE

STRIKE 3 HOLDINGS, LLC, a Delaware  
corporation,

Plaintiff,

v.

JOHN DOE, subscriber assigned IP  
address 73.225.38.130,

Defendant.

Case No. 2:17-cv-01731-TSZ

**DECLARATION OF EMILIE KENNEDY  
IN SUPPORT OF PLAINTIFF'S MOTION  
TO DISMISS DEFENDANT JOHN DOE'S  
FIRST AMENDED COUNTERCLAIMS**

NOTE ON MOTION CALENDAR:  
JUNE 22, 2018

DECLARATION OF EMILIE KENNEDY  
(2:17-CV-01731-TSZ) - 1

**Fox Rothschild LLP**  
1001 FOURTH AVENUE, SUITE 4500  
SEATTLE, WA 98154  
206.624.3600

**DECLARATION OF EMILIE KENNEDY**

I, Emilie Kennedy, do hereby state and declare as follows:

1. My name is Emilie Kennedy. I am over the age of 18 and am otherwise competent to make this declaration.

2. This declaration is based on my personal knowledge and, if called upon to do so, I will testify that the facts stated herein are true and accurate.

3. I am a duly licensed registered in-house counsel in the State of California (RIHC: 802963) and the general counsel for General Media Systems, LLC ("GMS"), the parent company of Strike 3 Holdings, LLC ("Strike 3").

4. Strike 3 is a subsidiary of GMS and owns the copyrights and trademarks to all of our brands, including all of our motion pictures.

5. For over two years, (long before we began our nationwide litigation), we have worked with the company xTakedowns to send DMCA notices to infringing websites, particularly torrent websites.

6. Data evidencing the DMCA notices we have sent is publicly available via Google's Transparency Report.

7. According to the Google Transparency Report, Strike 3 has issued DMCA takedown notices to 7,584,325 infringing URLs requesting that they remove infringing content from the Internet.<sup>1</sup>

8. Many of these URL requests were directed to torrent websites – the same websites the defendants in our lawsuits access to infringe our content. For example, on September 27, 2017, the same day Defendant's IP address was infringing our content, we issued 9,896 DMCA takedown notices, primarily to torrent websites.<sup>2</sup>

<sup>1</sup>[https://transparencyreport.google.com/copyright/overview?hl=en&copyright\\_result\\_owner=&copyright\\_result\\_org=&copyright\\_result\\_domain=&search\\_copyright=q:Strike%203%20Holding&lu=search\\_copyright](https://transparencyreport.google.com/copyright/overview?hl=en&copyright_result_owner=&copyright_result_org=&copyright_result_domain=&search_copyright=q:Strike%203%20Holding&lu=search_copyright)

<sup>2</sup><https://transparencyreport.google.com/copyright/request/5137846?hl=en>

1           9.     This process has proved to be unsuccessful at greatly reducing copyright  
2 infringement. Indeed, although we are a small company compared to others in the media  
3 industry and we only began issuing DMCA takedown notices in August of 2015, we rank in the  
4 top 60 companies for the most DMCA notices issued for all time reported by Google.<sup>3</sup>  
5 Unfortunately, each month, the infringement we experience on BitTorrent networks seems to  
6 grow as our brands become more popular.

7           10.    We do not send DMCA notices directly to subscribers via the method Defendant  
8 suggests because that strategy simply does not curb infringement. I examined the efforts made  
9 by the Motion Picture Association of America (MPAA) and the Recording Industry Association  
10 of America (RIAA) to effectuate the DMCA process. Yet, an enormous amount of resources and  
11 expense were invested to create a system that ultimately was abandoned as notices sent to  
12 subscribers did not curb infringement. This was largely because nominal penalties or incentives  
13 existed under this system that encouraged individuals to cease their infringing activities.

14          11.    I do not know of any ISPs that actually terminate repeat infringers after receiving  
15 notices of infringement. I do not believe they did for the major record labels and movie studios  
16 and I do not believe they will do so for us. Given the lack of success by these larger  
17 entertainment companies, I cannot see why it would be worthwhile for our company to repeat the  
18 same process.

19          12.    From my experience, only a lawsuit such as this one will actually cause an  
20 infringing IP address to stop. Indeed, in this very case after months of continuous infringement,  
21 Defendant's IP address ceased infringing after Plaintiff filed suit.

22          13.    Defendant's assertion that we have only sued defendants in wealthy cities is false.  
23 Dkt. # 37 at p. 2. We have filed lawsuits against defendants whose IP addresses trace to cities  
24  
25

26 <sup>3</sup>[https://transparencyreport.google.com/copyright/explore?hl=en&copyright\\_data\\_exploration=ce:owner;size:10;p:MTo6MTA6NTA6NjA&lu=copyright\\_data\\_exploration](https://transparencyreport.google.com/copyright/explore?hl=en&copyright_data_exploration=ce:owner;size:10;p:MTo6MTA6NTA6NjA&lu=copyright_data_exploration)

1 with a widespread variety of demographics and throughout the country. Attached as **Exhibit A**  
2 is a list of every trace city in which we have filed suit against a defendant.

3 Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury under the laws of the  
4 United States of America that the foregoing is true and correct.

5  
6 DATED this 22nd day of June, 2018 at Studio City, California.

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11 Emilie Kennedy  
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DECLARATION OF EMILIE KENNEDY  
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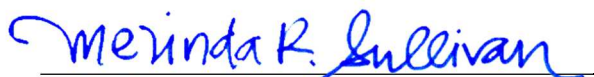
**CERTIFICATE OF SERVICE**

I hereby certify that on June 22, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following persons:

J. Curtis Edmondson, WSBA #43795  
399 NE John Olsen Avenue  
Hillsboro, Oregon 97124  
Telephone: (503) 336-3749  
Email: [jcedmondson@edmolaw.com](mailto:jcedmondson@edmolaw.com)

☒ Via CM/ECF  
☐ Via U.S. Mail  
☐ Via Messenger Delivery  
☐ Via Overnight Courier  
☐ Via Facsimile

DATED this 22<sup>nd</sup> day of June, 2018.

  
Melinda R. Sullivan  
Legal Administrative Assistant

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